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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.NO.19772 OF 2010

P.Geetha

.. Petitioner

Vs.

1. Teachers Recruitment Board
rep. by its Member Secretary
College Road, Chennai - 600 006.
2. The Director of School Education
Chennai - 600 006.
3. The Assistant Director
Professional and Executive Employment Exchange
Chennai - 600 004.

.. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records in File No.2554/B1/2009 of the first respondent relating to non-selection of the petitioner (Roll No.A.02291005) to the post of Post Graduate Assistant (English) for 2009-10 published on 07.06.2010, quash the same and issue consequential directions to the respondents 1 and 2 to consider the petitioner for appointment to the said post on the basis of certificate verification held on 17.03.2010 and appoint her to the said post.

For the Petitioner : Mr.M.Ravi



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For the Respondents

: Mr.C.Kathiravan
Special Government Pleader
For respondent 1

Mrs.E.Renganayaki
Addl. Government Pleader
For respondents 2 and 3

ORDER

This writ petition is filed challenging the select list dated 07.06.2010 for the post of Post Graduate Teacher in English and consequently, to consider the petitioner for appointment to the said post pursuant to the certificate verification held on 17.03.2010.

2. The case of the petitioner is that she had passed B.Sc. Zoology in April 1990 through Bharathidasan University. Thereafter, she pursued M.A. Degree in English through Madurai Kamaraj University and passed the same in April 1994. Subsequently, she underwent B.Ed. Degree course and completed the same in November 1999 in Bharathidasan University. She had registered all her above qualifications in the Professional and Executive Employment Exchange, namely the third respondent. Subsequently, she also pursued B.A. Degree in English and completed the same in April 2009 through Bharathidasan University.

3. It is her further case that she initially registered her name in the District Employment Exchange, Karur, on 08.11.1994 and after acquiring B.Ed. Degree, she got the registration renewed in the Professional and Executive Employment Exchange. While her name was on the live register in the Employment Exchange, as per the employment seniority, she was sponsored by the Employment Exchange for the post of Post Graduate Assistant to the selection made by the Teachers Recruitment Board and she was called for certificate verification on 17.03.2010. Subsequently, when she verified the select list, her name was not found and upon verification, she was informed that 22.10.1999 was fixed as the cut-off date and her date of registration was not within the cut-off date. Hence, the present writ petition.

4. The writ petition is contested by the first respondent by filing a counter affidavit and an additional counter affidavit. As per the additional counter affidavit, even though the names of 4268 candidates were sponsored, appointment was made as per the employment seniority and the last of the candidates who was selected as per the employment seniority is as follows:



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Community	Date
SC (W)	22.10.1999
SC (G)	10.07.1997
GT (W)	02.09.1989
GT (G)	19.08.1989

However, the petitioner has acquired the qualifications on the dates given below:

Qualification	Date of acquiring
Under Graduation - B.Sc. Zoology	April 1990
Under Graduation - B.A. English	April 2009
Master Degree - M.A. English	April 1994
B.Ed.	November 1999

Since the possession of B.A. English is an essential qualification for the said post, without which the Post Graduation acquired by the petitioner in the subject of English cannot be taken into account, and as the petitioner acquired the said qualification only during April 2009, which is beyond the cut-off date mentioned above, she was not selected.

5. Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.C.Kathiravan, learned Special Government Pleader appearing for the first respondent.

6. Learned counsel for the petitioner would submit that the stand taken by the first respondent cannot be countenanced for two reasons. Firstly, in the call letter itself, it has been clearly mentioned that taking into account her qualifications etc., the Employment Exchange has sponsored her name and therefore, she has been called for the certificate verification. Once the petitioner was found to be qualified, she was sponsored. Subsequently, there was no occasion for the respondents to hold that the petitioner was unqualified, especially when the petitioner possesses all the required qualifications.

7. It is his second submission that the cut-off date now mentioned in the counter affidavit was not originally part of the notification or in the call letter. Therefore, the introduction of the cut-off date amounts to change in the course of the game and therefore, it cannot be permitted. The first



respondent cannot introduce a new Rule in the form of cut-off date after the course of the selection had started.

8. In support of his contentions, learned counsel for the petitioner would rely upon the judgment of the Supreme Court in Tamil Nadu Computer Science B.Ed. Graduate Teachers Welfare Society vs. Higher Secondary School Computer Teacher Association [(2009) 14 SCC 517], specifically relying upon paragraphs 32-34. Learned counsel would also rely upon the judgment of the Supreme Court in K.Manjusree vs. State of A.P. and others [C.A.No.1313 of 2008 dated 15.02.2008]. Reference to paragraph 30 of the said judgment has been made to press the point that the rules cannot be changed by introducing new criteria after the commencement of selection. Learned counsel also relied upon the judgment of Supreme Court of India in the case of Bishnu Biswas and others vs. Union of India and others [C.A.Nos.4255-58 of 2015 dated 02.04.2014], for the same proposition.

9. Therefore, he would submit that this is a case where this Court should interfere, especially considering the fact that the petitioner is a meritorious candidate hailing from a poor background and having acquired two different qualifications in pursuit of her willingness to have a career as a teacher and accordingly, he would pray to allow the writ petition.

10. Per contra, learned Special Government Pleader would submit that the law relating to the subject is very well settled that unless any candidate has a qualification in the pattern of 10+2+3+2, the Post Graduation Degree obtained through an Open University or through any other University without having an Under Graduate Degree, cannot be taken into account for the purpose of recruitment. The petitioner's qualification became valid only after the acquisition of the Bachelor's degree, which was in the year 2009. Unfortunately, when various communal rotations were implemented, the last of the candidates who come within the purview of the employment seniority in respect of Scheduled Caste (Women) ends in the year 1999, while in respect of General Category candidates, it ends in the year 1989. The petitioner acquired the required qualification only in the year 2009 and therefore, the petitioner does not come within the purview of the employment seniority which was the criteria for appointment at the relevant period of time.

11. I have considered the rival submissions made on behalf of either side and perused the materials on record.

12. The law relating to the qualification is now settled by the Hon'ble Supreme Court of India in the judgment in Annamalai University, rep. by its Registrar vs Secretary to Government and



others [(2009) 4 SCC 590].

13. Therefore, the petitioner cannot contend that when she obtained M.A. degree in the year 1994 and subsequently, when she registered her B.Ed. Degree in the year 1999, she became eligible. The petitioner became eligible to be considered only after her Under Graduation in the year 2009. Thus, she does not come within the last cut-off date of the employment seniority. The contention of learned counsel for the petitioner that such a criteria of cut-off date introduced at the time of selection is illogical and is without any merit because the method of selection is by way of employment seniority and once that is notified, the respondents have to go only by rule and there is no change in the rule during the process of selection. It is only the last of the candidates who got selected, the date is mentioned as a cut-off date and therefore, it is not as if some criteria of cut-off date is introduced during the course of selection and therefore, the submission in this regard is unacceptable and the three judgments cited by learned counsel in this regard are not applicable to the facts and circumstances of this case as the question as to the change of rules of the game does not arise in the instant case at all.

14. Similarly, the further contention that only taking into account that the petitioner was qualified, she was sponsored by the Employment Exchange and the certificates were verified and thereafter, there is no question of any change of stand on the part of the first respondent cannot be countenanced, because, any mistake is liable to be corrected. The Employment Exchange has sponsored the name of the candidates who have registered in the discipline of English on the basis of the entries in the Employment Exchange and it does not step into the shoes of the employer to verify each and every qualification of the candidate. Thereafter, in the certificate verification and even subsequently, the respondents, being the employer, are entitled to verify the eligibility and qualifications of the petitioner and if the petitioner is found not to have the required qualification or found to have acquired the qualifications on a subsequent date, it is well within their powers not to consider the petitioner and accordingly, the submission of learned counsel for the petitioner is also without any merit.

15. Finally, the plea to consider the case on sympathetic basis also cannot be accepted, because, if accepted, the same will go against the above mentioned ruling of the Supreme Court. Though it can be said that in the instant case, one casual decision of the petitioner to change the subject of the study had cost her dear which can be termed as unfortunate. However, this Court is unable to redress the effect of such decision which is made by the petitioner herself. Therefore, there is no



ground to interfere with the impugned selection list and accordingly, the writ petition fails and is dismissed. There will be no order as to costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To:

1. The Member Secretary
Teachers Recruitment Board
College Road, Chennai - 600 006.
2. The Director of School Education
Chennai - 600 006.
3. The Assistant Director
Professional and Executive Employment Exchange
Chennai - 600 004.

+1cc to Government Pleader, SR.NO.28624(23/06/2022)

W.P.No.19772 of 2010

AD(CO)
PM/25/05/2022